

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL HUFTILE,

Plaintiff,

No. CIV S-03-1522 FCD DAD P

vs.

L.C. MICCIO-FONSECA,

Defendant.

ORDER

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Plaintiff is a civil detainee proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has filed a third amended complaint in response to the court's order filed on September 27, 2007.¹

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¹ The United States Court of Appeals for the Ninth Circuit previously remanded this action to the District Court to allow it to proceed solely on plaintiff's claims for injunctive relief. Plaintiff's other claims for monetary damages are barred by the holding in Heck v. Humphrey, 512 U.S. 477 (1994). On September 27, 2007, the court granted defendant's motion to dismiss on the grounds that as to some causes of action plaintiff had failed to state a cognizable claim and that as to others the allegations of plaintiff's second amended complaint were so vague and ambiguous as to make it impossible to determine whether plaintiff could state a cognizable claim. However, "out of an abundance of caution," the court granted plaintiff leave to file a third amended complaint. (Order filed Sept. 27, 2007 at 21.)

1 In his third amended complaint, plaintiff alleges violation of his due process rights
2 and seeks only injunctive relief. The court will order defendant to file a response to the third
3 amended complaint.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Within forty-five days from the service of this order, defendant shall file a
6 response to plaintiff's third amended complaint; and

7 2. If the response to the third amended complaint is a motion, plaintiff shall file
8 his opposition or non-opposition to the motion within thirty days thereafter.

9 DATED: November 5, 2008.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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